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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

EVARISTO CHECCHIN,

Defendant.

CASE NO. 1:23-CR-00075 JLT-SKO

**STIPULATION TO CONTINUE STATUS
CONFERENCE AND EXCLUSION OF TIME
AND ORDER**

Date: June 21, 2023
Time: 1:00 p.m.
Honorable Sheila K. Oberto

The United States of America, by and through PHILLIP A. TALBERT, United States Attorney, and ARIN C. HEINZ, Assistant United States Attorneys, and the defendant, by and through Mr. Peter Jones, his attorney of record, hereby stipulate to continue the status conference in this case from June 21, 2023 until September 6, 2023 at 1:00 p.m.

The Supreme Court has emphasized that the Speedy Trial Act's end-of-justice provision "counteract[s] substantive open endedness with procedural strictness," "demand[ing] on-the-record findings" in a particular case. *Zedner v. United States*, 547 U.S. 489, 509 (2006). "[W]ithout on-the-record findings, there can be no exclusion under" § 3161(h)(7)(A). *Id.* at 507. And moreover, any such failure cannot be harmless. *Id.* at 509; *see also United States v. Ramirez-Cortez*, 213 F.3d 1149, 1153 (9th Cir. 2000) (explaining that a judge ordering and ends-of-justice continuance must set forth explicit findings on the record "either orally or in writing").

Ends-of-justice continuances are excludable only if "the judge granted such continuance on the

1 basis of his findings that the ends of justice served by taking such action outweigh the best interest of the
2 public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is
3 excludable unless “the court sets forth, in the record of the case, either orally or in writing, its reason or
4 finding that the ends of justice served by the granting of such continuance outweigh the best interests of
5 the public and the defendant in a speedy trial.” *Id.*

6 This Court should consider the following case-specific facts in finding excludable delay
7 appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7) (Local Code T4). If
8 continued, this Court should designate a new date for the status conference. *United States v. Lewis*, 611
9 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

10 The parties request that time be excluded between June 21, 2023 and September 6, 2023 for the
11 following reasons:

12 1. The discovery in this case is over 11 GB of data and was produced to the defense counsel on
13 May 17, 2023. The discovery consists of recorded conversations between the defendant and a
14 confidential informant, transcripts of the same conversations, investigative reports, and photographs.
15 Due to the large size of the discovery, the defense counsel is still in the process of reviewing the
16 discovery.

17 2. Defense counsel has met with Mr. Checchin and is beginning its own investigation into the
18 charges in the Indictment. The defense counsel requests further time to review discovery, consult with
19 his client, investigate the underlying allegations and engage in conversations with the government
20 counsel about possible resolution.

21 3. The government does not oppose the requested continuance.

22 The parties further believe that time should be excluded, in that failure to grant the requested
23 case schedule would unreasonably deny the defendants continuity of counsel, and unreasonably deny
24 both the defendants and the government the reasonable time necessary for effective preparation, taking
25 into account the parties’ due diligence in prosecuting this case. 18 U.S.C. Section 3161(h)(7)(B)(iv).
26 Based on the above-stated findings, the ends of justice served by the schedule as requested outweigh the
27 interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial
28 Act. Therefore, the parties request that the Court exclude the time until the new hearing date from

calculations under the Speedy Trial Act.

Dated: June 12, 2023

PHILLIP A TALBERT
United States Attorney

/s/ Arin C. Heinz

ARIN C. HEINZ

Assistant United States Attorney

DATED: June 12, 2023

/s/ Peter Jones

PETER JONES

Attorney for Defendant Evaristo Checchin

ORDER

IT IS SO ORDERED.

DATED: 6/15/2023

Sheila K. Oberto

THE HONORABLE SHEILA K. OBERTO
UNITED STATES MAGISTRATE JUDGE